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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/057,313	04/08/1998	JOHN D. MCCOWN	033449-002	6282
27805	7590	08/11/2006	EXAMINER	
THOMPSON HINE L.L.P.			O'CONNOR, GERALD J	
P.O. BOX 8801			ART UNIT	
DAYTON, OH 45401-8801			PAPER NUMBER	
			3627	

DATE MAILED: 08/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/057,313

Applicant(s)

McCown et al.

Examiner

O'Connor

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on May 25, 2006 (RCE w/Amdt).
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-19, 21, 22, 25, 26, 28, 32, 35, 38, 39, 42-44, 46-48, 50-55, 57-59, 61-63, 65, 66, and 70-75 is/are pending in the application.
- 4a) Of the above claim(s) none is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16-19, 21, 22, 25, 26, 28, 32, 35, 38, 39, 42-44, 46-48, 50-55, 57-59, 61-63, 65, 66, and 70-75 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on November 20, 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 25, 2006 has been entered.

Preliminary Remarks

2. This Office action responds to the amendment and arguments filed by applicant on May 25, 2006 in reply to the previous Office action on the merits, mailed January 17, 2006.

3. The amendment of claims 16, 21, 22, 25, 55, 57-59, 61-63, 65, 66, and 72; cancellation of claims 23, 27, 33, 40, 56, 60, and 64; and addition of claims 73-75, by applicant in the reply filed on May 25, 2006, are all hereby acknowledged.

4. PLEASE TAKE NOTICE that the examiner handling this application has changed. The new examiner is *Jerry O'Connor*. The Group Art Unit number is unchanged and is still 3627.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 16-19, 21, 22, 25, 26, 28, 32, 35, 38, 39, 42-44, 46-48, 50-55, 57-59, 61-63, 65, 66, and 70-75 are rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art, as described in the written specification.

The admitted prior art includes that all of the apparatus recited as being used by the process steps of the instant method claims is conventional in nature, used in a conventional/known manner, except for some of the particularly recited shapes and/or values/dimensions/proportions of certain elements of the apparatus being of certain particularly recited values, none of which are deemed sufficient to patentably distinguish the claims as being non-obvious. See MPEP § 2144.

Regarding claims 16-19, 21, 22, 25, 26, 28, 32, 35, 38, 39, 42-44, 46-48, 50-52, and 70-75, the admitted prior art includes all of the recited steps except for the marine vessel being accessed having a beam size of about, or at least about, $\frac{1}{4}$ of its length. However, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have used a marine vessel having a beam size of about, or at least about, $\frac{1}{4}$ of its length, with the otherwise admitted prior art method, since it has been held that merely discovering an optimum value of a result-effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215.

Regarding claim 53, the admitted prior art includes all of the recited steps except for the containers being stacked at least three containers high. However, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have stacked the containers being stacked at least three containers high, in conjunction with the otherwise admitted prior art method, since it has been held that merely discovering an optimum value of a result-effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215.

Regarding claims 54, 58, 62, and 66, the admitted prior art includes all of the recited steps except for the bow of the marine vessel being accessed being of a pointed shape. However, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have used a marine vessel having a bow of a pointed shape with the otherwise admitted prior art method, since it has been held that merely changing the shape of an otherwise conventional item involves only routine skill in the art. *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966).

Regarding claims 55, 59, and 63, the admitted prior art includes all of the recited steps except for the marine vessel being accessed having a storage deck strength of approximately 1,750 pounds per square foot. However, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have used a marine vessel having a storage deck strength of approximately 1,750 pounds per square foot, with the otherwise admitted prior art method, since it has been held that merely discovering an optimum value of a result-effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215.

Regarding claims 57, 61, and 65, the admitted prior art includes all of the recited steps except for the ramp being used having a length of approximately 75 feet. However, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have used a ramp having a length of approximately 75 feet, with the otherwise admitted prior art method, since it has been held that merely discovering an optimum value of a result-effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215.

Response to Arguments

7. Applicant's arguments filed May 25, 2006 have been fully considered but they are not deemed persuasive.

8. The arguments regarding the previous prior art rejections have been considered, but have been rendered moot by applicant's amendment, and the consequent new grounds of rejection.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to the disclosure.

10. Any inquiry concerning this communication, or earlier communications, should be directed to the examiner, **Jerry O'Connor**, whose telephone number is **(571) 272-6787**, and whose facsimile number is **(571) 273-6787**.

The examiner can normally be reached weekdays from 9:30 to 6:00.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor,
Mr. Alexander Kalinowski, can be reached at (571) 272-6771.

Official replies to this Office action may be submitted by any *one* of fax, mail, or hand delivery. **Faxed replies are preferred and should be directed to (571) 273-8300.** Mailed replies should be addressed to "Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450." Hand delivered replies should be delivered to the "Customer Service Window, Randolph Building, 401 Dulany Street, Alexandria, VA 22314."

GJOC

August 4, 2006

 8/4/06

Gerald J. O'Connor
Primary Examiner
Group Art Unit 3627